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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED  
HARRISBURG, PA

KIM SMITH,

JAN 21 2003

Plaintiff,

MARY E. D'ANDREA CLERK  
Per *ajf* Deputy Clerk

v.

JAMES MORGAN, et al.,

Civil No. 1:01-CV-0817

Defendants.

(Judge William W. Caldwell)

(M.J. Malachy E. Mannion)

**CORRECTIONS DEFENDANTS'**  
**MOTION FOR AN ENLARGEMENT OF TIME**

The Corrections Defendants, by and through their attorney, John J. Talaber, Assistant Counsel, Pennsylvania Department of Corrections, pursuant to Fed.R.Civ.P. 6(b) respectfully requests this Honorable Court to grant an enlargement of time until January 31, 2003, for their: (1) Statement of Material Facts and (2) their supporting Brief to the Motion for Summary Judgment. The following averments are made in support of this Motion:

**Parties and Nature of Action:**

1. Plaintiff Kim Smith is an inmate currently incarcerated at the State Correctional Institution at Coal Township ("SCI-Coal Township"). See Amended Complaint (doc. 20), p. 12.

2. The Department of Corrections Defendants ("Corrections Defendants") include: (1) Kathy Allen; (2) Nancy Ambrose; (3) Mary Bernas; (4) Sharon Burks; (5) Kandis Dascani; (6) John Dunn; (7) Harry Ersek; (8) Frank Gillis; (9) Robert Glenny; (10) Robert Gooler; (11) Dr. Robyn Johns; (12) Roy Johnson; (13) Tim Jordan; (14) Bernon Lane; (15) John Learn; (16) Edward Mason; (17) Miller; (18) James Morgan; (19) Wilma Sewell; (20) Raymond Smith; (21) David Varano; (22) Voeckler; (23) George Weaver; (24) Lynn Wolfgang; (25) Gerald Whysong; (26) Pat Yarger; (27) Angela Zimmerman; and (28) Hazel Zimmerman. See Amended Complaint, pp. 1-16.
3. Smith also names as Defendants Wexford Health Services, Inc. and Dr. Ronald Long, who are represented by James D. Young, Esquire. See Entry of Appearance (doc. 28).
4. In this 42 U.S.C. §1983 action, Smith alleges that the Corrections Defendants violated his First, Eighth, and Fourteenth Amendment rights under the United States Constitution. See Amended Complaint, pp. 1-16.
5. Smith is suing the Corrections Defendants in their individual capacities. See Amended Complaint, p.8.
6. Smith seeks injunctive relief, as well as, compensatory and punitive damages. See Amended Complaint, pp. 1-16.

Relevant Procedural History:

7. Smith initiated this action with the filing of a Complaint and an Application for In Forma Pauperis status on May 10, 2001. See Complaint (doc. 1); Application to proceed IFP (doc. 2).
8. The Court, by Order dated June 6, 2001, directed Smith to file an Amended Complaint on or before July 6, 2001. See Order (doc. 8).
9. On July 11, 2001, Smith filed an Amended Complaint. See Amended Complaint (doc. 20).
10. On August 3, 2001, the Court found that Smith's Amended Complaint substantially complied with its previous orders, and directed the Clerk of Court to serve process on the Defendants. See Order (doc. 24).
11. On or about September 26, 2001, the undersigned attorney waived service of summons for the Corrections Defendants.
12. On November 6, 2001, the Corrections Defendants waived their right to reply to Smith's Amended Complaint pursuant to 42 U.S.C. §1997(e). See Waiver of Reply (doc. 33).
13. On October 24, 2002, the Court granted the Defendants' Motion for discovery and dispositive motion deadlines; specifically, the Court directed that discovery be completed on or before November 12, 2002, and dispositive motions filed by December 13, 2002. (doc. 89)

14. On December 13, 2002, the Corrections Defendants' filed a Motion for Summary Judgment.

Motion for Enlargement:

15. The Corrections Defendants, by and through their undersigned attorney, respectfully request an enlargement of time until Friday, January 31, 2003.
16. Federal Rule of Civil Procedure 6(b) provides, in part, that “[w]hen by these rules . . . an act required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion . . . order the period enlarged if request therefore is made before the expiration of the period originally prescribed . . .”
17. This request for an enlargement of time is necessary due to two family emergencies involving the undersigned attorney's mother and paternal grandfather. Both situations require (and have required) medical intervention and counsel's time away from his Office, with the latter condition considered very serious and critical.
18. Counsel represents that he can provide the Court and Plaintiff with a more detailed explanation outside the constraints of this Court filing upon request so that the medical conditions of his family are not made a public record.
19. Counsel anticipates that he may be required to be away from the Office during some portion of the next two weeks (January 20th and January 27th)

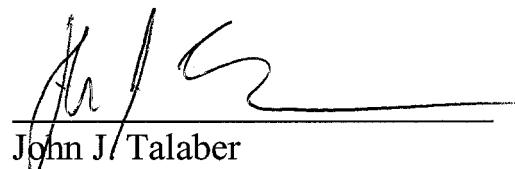
to assist his family in the above-referenced situation, but he will continue to work on the documents so that they will be ready for filing on or before January 31, 2003.

20. The request is also necessary, given past absence from the Office related to this situation, so that counsel can continue to work closely with his legal assistant to obtain signatures for declarations from his clients to rebut the claims Smith makes in his Amended Complaint.
21. Counsel called James Young, Esquire this morning and informed him of the situation. Mr. Young did not object to this unanticipated enlargement of time.

**WHEREFORE**, for the reasons set forth above, the Corrections Defendants respectfully request the Court to grant them an enlargement of time under January 31, 2003, to file their Statement of Material Facts and Supporting Brief to their Motion for Summary Judgment.

Respectfully submitted,  
Office of General Counsel

BY:

  
John J. Talaber  
Assistant Counsel  
Pa. Department of Corrections  
55 Utley Drive  
Camp Hill, PA 17011  
(717) 731-0444  
Attorney No. 83279

Dated: January 21, 2003

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KIM SMITH,

Plaintiff,

v.

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Civil No. 1:01-0817

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(Judge William W. Caldwell)

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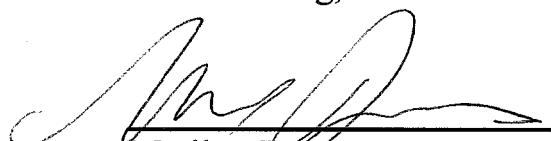
**CERTIFICATE OF SERVICE**

I undersigned hereby certifies that a copy of the Corrections Defendants' Motion for an Enlargement of Time in this matter was served upon the person(s) in the manner indicated below.

Service by first-class mail  
addressed as follows:

Kim Smith, CT-2162  
SCI-Coal Township  
1 Kelley Drive  
Coal Township PA 17866-1020

James D. Young, Esquire  
Lavery Faherty Young and Patterson P.C.  
301 Market Street  
P.O. Box 1245  
Harrisburg, PA 17108-1245



Marilyn Jones  
Clerk Typist 2

PA Department of Corrections  
55 Utley Drive  
Camp Hill, PA 17011  
(717) 731-0444  
Dated: January 21, 2003